

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: **JUN 05 2013**

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:
DAVID A. CARTER, individually and on :
behalf of all others similarly situated, :

Plaintiff, :

-v- :

ELC, LLC d/b/a SELECT EXPRESS & :
LOGISTICS, :

Defendant. :
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KATHERINE B. FORREST, District Judge:

13-CV-1548 (KBF)

ORDER

This action was recently transferred to the undersigned. Plaintiff brought the action under the FLSA and New York State labor laws. The Court has now been advised that the parties have reached a settlement.

The FLSA imposes an obligation to pay unpaid overtime compensation and an additional equal amount as liquidated damages. See 29 U.S.C. § 216(b). In the event that a settlement does not require full payment of that amount, it must be scrutinized by the Court to ensure that it is fair. See, e.g., Elliott v. Allstate Investigations, Inc., No. 07 Civ. 6078 (DLC), 2008 WL 728648 (S.D.N.Y. Mar. 19, 2008).

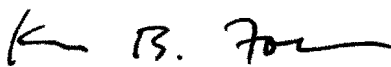
Accordingly, it is hereby ORDERED that the parties submit any proposed settlement agreement to the Court for its approval no later than June 17, 2013. The parties shall also on or before that date make submissions in support of their

settlement, explaining why it should be approved based on the issues described in Elliott. With regard to the FLSA claim, such submissions shall provide for any plaintiff (1) the amount of unpaid overtime compensation claimed on his or her FLSA claim; (2) the amount of the settlement consideration attributable to the FLSA claim; and (3) any weaknesses, strengths, uncertainties or other circumstances with regard to the FLSA claim, or its prosecution, that affected the corresponding portion of the settlement consideration. In addition, the submission shall (4) set forth the amount of any award of attorney's fees and the specific basis for that fee calculation (e.g., hourly rate, number of hours, and any contractual limitations on the fee award).

In light of the parties' settlement, the Clerk of Court is hereby directed to deny as moot the motion to compel arbitration at ECF No. 5.

SO ORDERED:

Dated: New York, New York
June 5, 2013



KATHERINE B. FORREST
United States District Judge